

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOE A. HOOVEN, et al., : CIVIL ACTION
 Plaintiffs, :
 :
 v. :
 :
EXXON MOBIL CORP. and :
MOBIL CORPORATION EMPLOYEE :
SEVERANCE PLAN, :
 Defendants. : NO. 00-CV-5071

MEMORANDUM & ORDER

J.M. KELLY, J.

JUNE , 2002

Presently before the Court are the Cross-motions for Summary Judgment of Plaintiffs and Defendants, Exxon Mobil Corp. and Mobil Corporation Employee Severance Plan (collectively "Exxon Mobil"). Plaintiffs commenced this action, alleging: (1) breach of fiduciary duty; (2) equitable estoppel; (3) breach of contract; and (4) violation of reporting requirements, all pursuant to the Employee Retirement and Income Security Act (ERISA), 29 U.S.C. §§ 1001-1461 (1994).

I. BACKGROUND

Plaintiffs were employed by Mobil Corporation at a time when the acquisition of Mobil Corporation to create Exxon Mobil was contemplated. Plaintiffs allege that in order to retain them as employees in its Mid-Atlantic Marketing Assets, Mobil Corporation instituted a severance plan that purportedly applied to "Tier 4" employees, such as Plaintiffs. Plaintiffs received a summary plan description of the Mobil Severance Plan in August 1999. The

Severance Plan generally provided monetary payments to employees who lost their employment with Mobil Corporation as a result of a change in control of Mobil Corporation. On November 30, 1999, the FTC approved Exxon Corporation's acquisition of Mobil Corporation. As required by the FTC, Mobil Corporation sold its Mid-Atlantic Marketing Assets to Tosco Marketing Associates ("Tosco") and terminated the employment of the Plaintiffs, who were then employed by Tosco. Exxon Mobil then utilized a provision of the severance plan, not in the plan summary, that excluded Plaintiffs from the severance plan in the event of a divestiture. Two Plaintiffs applied for severance benefits under the Severance Plan. Their applications and subsequent appeals were denied. The divestiture provision of the Severance Plan was publicized as an errata to the Plan Summary in February 2000. Exxon Mobil also claims the error was disclosed on a company intranet site. Exxon Mobil does not dispute that the divestiture provision was omitted from the Plan Summary, rather, Exxon Mobil minimizes the omission as "inartful drafting."

II. STANDARD OF REVIEW

Under Federal Rule of Civil Procedure 56(c), summary judgment "shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party

is entitled to a judgment as a matter of law." This court is required, in resolving a motion for summary judgment pursuant to Rule 56, to determine whether "the evidence is such that a reasonable [finder of fact] could return a verdict for the nonmoving party." Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). In making this determination, the evidence of the nonmoving party is to be believed, and the district court must draw all reasonable inferences in the nonmovant's favor. See id. at 255. Furthermore, while the movant bears the initial responsibility of informing the court of the basis for its motion, and identifying those portions of the record which demonstrate the absence of a genuine issue of material fact, Rule 56(c) requires the entry of summary judgment "after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986).

III. DISCUSSION

A. Breach of Fiduciary Duty

"ERISA trustees must act in the interest of the employee benefits plans they serve." Central States, Southeast & Southwest Areas Pension Fund v. Central Transport, Inc., 472 U.S. 559, 570 (1985). An ERISA fiduciary "shall discharge his duties

with respect to the interest of the participants and beneficiaries and--(A) for the exclusive purpose of providing benefits to participants and their beneficiaries." 29 U.S.C. § 1104(a). "The duty to disclose material information is the core of a fiduciary's responsibility. Bixler v. Central Pa. Teamsters Health & Welfare Fund, 12 F.3d 1292, 1300 (1993). Both plan summaries and the actual written plan govern the extent of employee benefits under ERISA. In re Unisys Corp. Retiree Med. Ben. ERISA Litig., 58 F.3d 896, 902 (3d Cir. 1995).

Here, there remains a factual issue as to whether the disclosure made by Exxon Mobil was sufficient to disclose the existence of the divestiture provision in a timely fashion. In addition, a factual issue remains as to whether the use of the intranet was an appropriate means to communicate with these employees. Accordingly, Exxon Mobil's Motion for Summary Judgment must be denied as to Plaintiffs' breach of fiduciary duty claim. Likewise, Plaintiffs' Motion for Summary Judgment must be denied as to the breach of fiduciary duty claim.

B. Breach of Contract

Exxon Mobil argues that only the actual Severance Plan can be considered to create a contract with Plaintiffs while Plaintiffs counter that the Plan Summary created a contract between the parties. In fact, the Court must consider both the Plan Summary and the plan itself. See Unysis, 58 F.3d at 902.

As these documents are inconsistent with one another, the contract is ambiguous. Therefore, a trial must be held to determine what was the contract between the parties.

C. Equitable Estoppel

To prevail on an equitable estoppel claim under ERISA, a plaintiff must establish (1) a material representation, (2) reasonable and detrimental reliance upon the representation, and (3) extraordinary circumstances. Smith v. Hartford Ins. Group, 6 F.3d 131, 137 (3d Cir.1993). There is evidence in this case from which a factfinder could draw the inference that Plaintiffs were misled as to their severance benefits in the event of a divestiture and they so relied to their detriment. A further inference can be drawn that Exxon Mobil intended to use the possibility of a severance policy to keep Plaintiffs employed by Mobil Corp. while the merger was pending. There is also evidence from which it can be inferred that Exxon Mobil "inartfully drafted" its Summary Plan, and then acted effectively to remedy that mistake. Accordingly, summary judgment is not appropriate on the equitable estoppel claim.

D. ERISA Reporting Violations

Plaintiffs may be entitled to equitable remedies for violation of ERISA reporting requirements where they can demonstrate extraordinary circumstances. See Ackerman v. Warnaco, Inc., 55 F.3d 117, 124 (3d Cir. 1995). Extraordinary

circumstances could be proved in this case if Plaintiffs show that Exxon Mobil actively concealed the divestiture provision in order to prevent them from acting in accordance with the divestiture provision. This presents a question of fact precluding summary judgment.

E. Individual Claims

Exxon Mobil suggests that even if Plaintiffs' claims survive as a group, that it should be granted summary judgment on many individual claims. Review of the record indicates that all of the Plaintiffs can demonstrate a reasonable inference to support their claims, precluding summary judgment.

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O R D E R

AND NOW, this day of June, 2002, upon consideration of the Motion for Summary Judgment of Defendants, Exxon Mobil Corp. and Mobil Corporation Employee Severance Plan (Doc. No. 46), the Motion for Partial Summary Judgment of the Plaintiffs (Doc. No. 44), and the various Responses and Replies thereto filed by the parties, it is ORDERED:

1. The Defendants' Motion for Summary Judgment is DENIED.
2. The Plaintiffs' Motion for Partial Summary Judgment is DENIED.

BY THE COURT:

JAMES MCGIRR KELLY, J.